JOHN M. McCOY III, Cal. Bar No.166244
Email: mccoyj@sec.gov
MARC J. BLAU, Cal. Bar No. 198162
Email: blaum@sec.gov
PETER F. DEL GRECO, Cal. Bar No. 164925
Email: delgrecop@sec.gov

Attorneys for Plaintiff
Securities and Exchange Commission
Rosalind R. Tyson, Regional Director
Michele Wein Layne, Associate Regional Director
5670 Wilshire Boulevard, 11th Floor
Los Angeles, California 90036
Telephone: (323) 965-3998
Facsimile: (323) 965-3908

**UNITED STATES DISTRICT COURT**

**SOUTHERN DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

PLUS MONEY, INC, and MATTHEW LA MADRID

Defendants,

and

THE PREMIUM RETURN FUND LIMITED-LIABILITY LIMITED PARTNERSHIP, THE PREMIUM RETURN FUND II LIMITED-LIABILITY LIMITED PARTNERSHIP, THE PREMIUM RETURN FUND III LIMITED-LIABILITY LIMITED PARTNERSHIP, RETURN FUND LLC, RETURN FUND II, LLC, RETURN FUND III, LLC, RETURN FUND IV, LLC, RETURN FUND V, LLC, RETURN FUND VI, LLC, PALLADIUM HOLDING COMPANY, and DONALD LOPEZ,

Relief Defendants.

Case No. 08-CV-0764 BEN (NLS)

**STATEMENT OF PLAINTIFF SECURITIES AND EXCHANGE COMMISSION IN REPONSE TO DEFENDANT MATTHEW LA MADRID'S COUNSEL'S JULY 23, 2008 LETTER TO THE COURT**

Plaintiff Securities and Exchange Commission ("Commission") provides this statement in response to the July 23, 2008 letter to the Court by Joseph N. Casas, counsel for defendant Matthew La Madrid ("La Madrid").

La Madrid's July 23 letter requests "clarification" of Paragraph XIII of this Court's May 16, 2008 Preliminary Injunction, which required La Madrid to prepare and deliver to the Commission by May 21, 2008 a detailed and complete schedule of his assets, and purports to explain why La Madrid has not complied with that requirement. The letter also suggests that the Court address the issue of La Madrid's breach of Paragraph XIII at the August 11, 2008 hearing of La Madrid's motion to stay this case.

La Madrid contends that he has not complied with Paragraph XIII of the Preliminary Injunction because information included in the schedule of assets could tend to incriminate him. This argument is, at the very least, overbroad. Assuming *arguendo* the accuracy of La Madrid's claim that he "is unable to fully account for the provenance of his assets without revealing potentially incriminating information . . .", such concerns provide no justification for his refusal to provide *any* of the information the Court ordered him to produce. Even if "fully account[ing] for the provenance" of his assets would raise Fifth Amendment concerns, there is much information that could be provided *without* implicating such concerns. Yet La Madrid has refused to provide any information *whatsoever* in response to the Court's order. *See U.S. v. Pierce*, 561 F.2d 735, 740 (9th Cir. 1977) (Fifth Amendment assertions must be made on a question-by-question, not blanket, basis).

Moreover, the fundamental premise of the July 23 letter is inaccurate. La Madrid purports to rely on "changed circumstances" – primarily the purported "increase" in the U.S. Attorney's Office's criminal investigation – to justify his refusal to comply with the Preliminary Injunction. In truth, however, *nothing* has changed. The FBI executed a search warrant on La Madrid's home before this action was even filed, and La Madrid was well aware that he was the target of a criminal investigation. And as noted in the Commission's opposition to La Madrid's motion to stay these proceedings, no indictment has been filed. Thus, La Madrid is in exactly the same circumstances – circumstances largely of his own making – he was in when the Preliminary Injunction was issued. Significantly, the Preliminary Injunction required that La Madrid provide an accounting and schedule of assets *within five days of its issuance*. While La Madrid's letter relies on generalities and carefully avoids discussing dates or other specifics, any "changed circumstances" would be relevant to explain La Madrid's non-compliance only if the circumstances surrounding the criminal investigation changed significantly *between May 16, 2008 and May 21, 2008*. La Madrid does not point to any meaningful changes in circumstance during that five-day window, nor could he credibly do so.

Unfortunately, La Madrid and his counsel have been less than candid with the Court when discussing the as-yet hypothetical criminal proceeding and their own legal gamesmanship in this case. The only thing that has changed is La Madrid's litigation strategy. He now seeks to turn the inchoate criminal investigation to his tactical advantage, using overbroad references to that investigation and his Fifth Amendment rights to buy time to further dissipate his hidden assets and generally avoid scrutiny of his financial malfeasance. Indeed, by contending in his briefs and declarations in support of the pending motion to stay that he has not secreted any assets since April 1, 2008, La Madrid has opened the door and waived any privilege that might have applied to that subject. *See generally Jones v. United States*, 296 F.2d 393, 404 (D.C. Cir. 1961) (party who generally denies responsibility or culpability with respect to event or transaction may not invoke Fifth Amendment to avoid cross-examination on relevant details).

Every day La Madrid is permitted to continue his campaign of stonewalling and evasion further erodes the ability of the Commission and the Receiver to achieve meaningful relief for the investors La Madrid robbed of their lives' savings, retirement funds, home equity, and children's college funds. *See* First Interim Report of Receiver Stephen J. Donell at 16 ("Receiver's document recovery efforts have been hampered by La Madrid's failure . . . to provide the Court with an accounting of his assets . . .) The Court should reject La Madrid's request that it bless his defiance of the Preliminary Injunction, just as it should reject the pending motion to stay.

DATED: August 5, 2008

Respectfully submitted,

/s/ John M. McCoy III
John M. McCoy III
Attorney for Plaintiff
Securities and Exchange Commission

**PROOF OF SERVICE**

I am over the age of 18 years and not a party to this action. My business address is:

[X] U.S. SECURITIES AND EXCHANGE COMMISSION, 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036-3648

Telephone No. (323) 965-3998; Facsimile No. (323) 965-3908.

On August 5, 2008, I caused to be served the document entitled **STATEMENT OF PLAINTIFF SECURITIES AND EXCHANGE COMMISSION IN REPONSE TO DEFENDANT MATTHEW LA MADRID'S COUNSEL'S JULY 23, 2008 LETTER TO THE COURT** on all the parties to this action addressed as stated on the attached service list:

[ ] **OFFICE MAIL:** By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

[ ] **PERSONAL DEPOSIT IN MAIL:** By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

[ ] **EXPRESS U.S. MAIL:** Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

[ ] **HAND DELIVERY:** I caused to be hand delivered each such envelope to the office of the addressee as stated on the attached service list.

[ ] **FEDERAL EXPRESS:** By placing in sealed envelope(s) designated by Federal Express with delivery fees paid or provided for, which I deposited in a facility regularly maintained by Federal Express or delivered to a Federal Express courier, at Los Angeles, California.

[X] **ELECTRONIC MAIL:** By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

[ ] **FAX:** By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

[X] **(Federal)** I declare that I am employed in the office of a member of the bar of this Court, at whose direction the service was made. I declare under penalty of perjury that the foregoing is true and correct.

Date: August 5, 2008

/s/ John M. McCoy III
John M. McCoy III

**SEC v. PLUS MONEY, INC., et al.**
**United States District Court – Southern District of California**
**Case No. 3:08 CV-0764 BEN (NLS)**
**(LA-3486)**

SERVICE LIST

Joseph N. Casas, Esq.
Casas Law Group, P.C.
2323 Broadway, Suite 202
San Diego, CA 92102
Telephone: (619) 692-3146
Facsimile: (619) 692-3196
Email: joseph@casaslaw.com
***Attorney for Defendant Matthew La Madrid***

Robert J. Liskey, Esq.
Tyler & Wilson LLP
5455 Wilshire Boulevard, Suite 1925
Los Angeles, CA 90036
Telephone: (323) 655-7180
Facsimile: (323) 655-7122
Email: rjl@tyler-law.com
***Attorney for Defendant Donald Lopez***

David L. Osias, Esq.
Allen Matkins Leck Gamble Mallory & Natsis
501 W. Broadway, 15th Floor
San Diego, CA 92101-3547
Telephone: (619) 233-1155
Facsimile: (619) 233-1158
Email: dosias@allenmatkins.com
***Attorney for Receiver Stephen J. Donell***